

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Election/Restriction Office Communication mailed on December 27, 2006.

No claims are amended, canceled, or added; as a result, claims 1-55 are now pending in this application

#### **Election/Restriction**

Restriction to one of the following groups was required under 35 USC 121:

- I. Claims 1-36, drawn to a fluid sensor, classified in class 422, subclass 98.
- II. Claims 37-54, drawn to a method for making a fluid sensor, classified in class 438, subclass 142.
- III. Claim 55, drawn to a method of using a fluid sensor, classified in class 73, subclass 1.02.

Applicant provisionally elects, with traverse, to prosecute the invention of Group I, and claims 1-36. The Restriction Requirement is traversed, at least in part, on the basis that restriction requirements are optional in all cases. MPEP 803. As the section further states, if the search and examination can be made without serious burden, the Examiner must examine it on the merits.

Applicant notes that at least one of the independent claims of the present application (i.e., claims 1, 27, 33, 37, and 49-55) from each of the groupings formulated by the Examiner (i.e., I, II, and III) recites, “an integral heater” “to maintain the field-effect transistor at the (an) elevated temperature” (independent claim 1 of Group I and independent claim 37 of Group II) or “to adjust the temperature of the fluid sensor to within a selected operating range” (independent claim 55 of Group III). Applicant also notes that maintaining a field-effect transistor used as a sensor at an elevated temperature (independent claims 1 and 37) includes “sensing a temperature of the fluid sensor”, as recited by independent claim 55.

In addition to the elements just described for all three groups, claim 1 of Group I and claim 37 of Group II each recite, “a field-effect transistor” formed from “semiconductor nano-wire” and “thermal insulation disposed to maintain the field-effect transistor at the (an) elevated temperature”.

Applicant respectfully submits that the Examiner will likely be uncovering similar art in searching the various groupings and that the Applicant should not be required to incur the additional costs associated with the filing of multiple applications to obtain protection for the claimed subject matter.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement, and that claims 1-55 of Groups I-III be examined on the merits together. In the alternative, Applicant respectfully requests that claims 1-54 of Groups I and II be examined on the merits together.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Gregg W. Wisdom at (360) 212-8052 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 08-2025.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 25<sup>th</sup> day of January, 2007.

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Respectfully Submitted,  
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Date: 1/25/2007